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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,483	11/03/2003	George C. Feng	YOR920010692US1	3217
48150	7590	09/08/2005		
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
			EXAMINER ZARNEKE, DAVID A	
			ART UNIT 2891	PAPER NUMBER

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,483

Applicant(s)

FENG ET AL.

Examiner

David A. Zarneke

Art Unit

2891

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 21-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-10,13-15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 5,11,12 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/3/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Figure 2, claims 1-20, in the reply filed on 7/8/05 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites the limitations "the active layer", "the passive layer", and "the first metal layer". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-3, 6-9, 13, 143, 16, and 17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Zhao, US Patent 6,509,623 (figures 2-6).

Regarding claims 2 and 3, Zhao teaches the dielectric chamber with a gas, such as air (abstract).

With respect to claim 6, Zhao teaches removing the dummy structure comprises using a downstream plasma etching process (7, 2+).

As to claim 7, Zhao teaches depositing a dielectric layer over the semiconductor substrate before forming the dummy structure (5, 11+).

In re claim 8, Zhao teaches depositing an oxide layer over the dummy structure (5, 39+).

Regarding claim 9, Zhao teaches the hole extends through the oxide to the dummy structure (figure 6).

With respect to claim 13, Zhao teaches depositing an insulating material [1100] over the dielectric layer.

As to claim 14 Zhao teaches depositing another dielectric layer [1110] over the insulating material.

Regarding claim 17, Zhao teaches the dielectric chamber is formed in one of the active layer, the passive layer, and the first metal layer (figure 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4, 10, 15, and 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Zhao, US Patent 6,509,623, as applied to claim 1.

Regarding claim 4, though Zhao fails to teach the gas comprises an inert gas, the use of inert gas is a commonly known, conventional substitute for air. The substitution of one known equivalent technique for another may be obvious even if the prior art does not expressly suggest the substitution (Ex parte Novak 16 USPQ 2d 2041 (BPAI 1989);

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In re Mostovych 144 USPQ 38 (CCPA 1964); In re Leshin 125 USPQ 416 (CCPA 1960); Graver Tank & Manufacturing Co. V. Linde Air Products Co. 85 USPQ 328 (USSC 1950).

With respect to claim 10, though Zhao fails to teach forming a metal liner over the oxide layer, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a metal liner in the invention of Zhao because it is a conventional material known to be used as an etch stop or as a pattern layer for the oxide layer. The use of conventional materials to perform there known functions in a conventional process is obvious (MPEP 2144.07).

With respect to claim 15, though Zhao fails to teach forming the hole through the another dielectric layer, the insulating layer and the dielectric layer, it would have been obvious to one of ordinary skill in the art at the time of the invention because forming the hole through more than one layer is a mere duplication of parts. The mere duplication of parts has no patentable significance unless a new and unexpected result is produced (In re Harza, 124 USPQ 378 (CCPA 1960)).

With respect to claim 18, though Zhao fails to teach the dummy structure is formed in multiple levels among conductive lines, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the dummy structure in multiple levels among conductive lines because the mere duplication of parts has no patentable significance unless a new and unexpected result is produced (In re Harza, 124 USPQ 378 (CCPA 1960)).

As to claim 19, though Zhao fails to teach the conductive lines comprise a first set of conductive lines at a first level and a second set of conductive lines at a second level over the first level, this would have been obvious to one of ordinary skill in the art at the time of the invention because the mere duplication of parts has no patentable significance unless a new and unexpected result is produced (*In re Harza*, 124 USPQ 378 (CCPA 1960)).

In re claim 20, though Zhao fails to teach the second set of conductive lines cross the first set of conductive lines, because this is a conventional interconnect structure. The use of conventional materials to perform there known functions in a conventional process is obvious (MPEP 2144.07).

Allowable Subject Matter

Claims 5, 11, 12, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

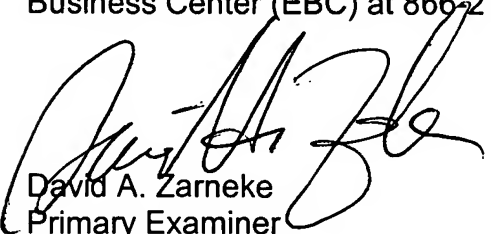
The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach the dummy structure made of polysilicon (claim 5); or depositing a metal layer over the dummy structure (claim 11); or polishing the metal layer of claim 11 (claim 12); or depositing a metal layer over the dummy structure, polishing the metal layer, depositing an insulating material over the metal layer, and forming a contact stud through the insulating layer and the dielectric layer so that the contact stud contacts the metal layer (claim 16).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Zarneke whose telephone number is (571)-272-1937. The examiner can normally be reached on M-Th 7:30 AM-6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Baumeister can be reached on (571)-272-1722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David A. Zarneke
Primary Examiner
September 5, 2005